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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,883	03/15/2004	Thomas N. Troxell	008932-924-999	4488
51832	7590	09/27/2006	EXAMINER	
JONES DAY 222 EAST 41ST STREET NEW YORK, NY 10017-6702			ROBERT, EDUARDO C	
			ART UNIT	PAPER NUMBER
			3733	

DATE MAILED: 09/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

*Supplemental*  
**Notice of Allowability**

Application No.

10/801,883

Examiner

John Kim

Applicant(s)

TROXELL ET AL.

Art Unit

3733

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 3/28/06.
2. ☒ The allowed claim(s) is/are 1-10, 12-42, 44-73 and 75-96.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of the:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.  
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached  
1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.  
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.  
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)  
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_  
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material  
5. ☐ Notice of Informal Patent Application (PTO-152)  
6. ☒ Interview Summary (PTO-413),  
Paper No./Mail Date 6/6/06.  
7. ☒ Examiner's Amendment/Comment  
8. ☒ Examiner's Statement of Reasons for Allowance  
9. ☐ Other \_\_\_\_\_

  
**EDUARDO C. ROBERT**  
**SUPERVISORY PATENT EXAMINER**

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Garry Tuma on June 6, 2006.

The application has been amended as follows:

In claim 1, line 4, "the first rod" has been changed to -- the first longitudinal spinal rod--.

In claim 1, line 8, "the hook portion" has been changed to -- the first hook portion--.

In claim 1, line 11, "the second rod" has been changed to -- the second longitudinal spinal rod--.

In claim 22, line 4, "the first rod" has been changed to -- the first longitudinal spinal rod--.

In claim 22, line 14, "the second rod" has been changed to -- the second longitudinal spinal rod--.

In claim 30, line 4, "the first and second spinal rods" has been changed to -- the first and second longitudinal spinal rods--.

In claim 32, line 3-4, "the first and second spinal rods" has been changed to -- the first and second longitudinal spinal rods--.

In claim 33, line 1-2, "the first and second spinal rods" has been changed to – the first and second longitudinal spinal rods--.

In claim 34, line 3, "a linking portion" has been changed to –a first linking portion -  
--.

In claim 34, line 4, "one of the fixation elements" has been changed to –one of the elongate spinal fixation elements --.

In claim 34, line 4, "the linking portion" has been changed to –the first linking portion --.

In claim 34, line 6, "the linking portion" has been changed to –the first linking portion --.

In claim 34, line 9, "the linking portion" has been changed to –the first linking portion --.

In claim 34, line 10, "a linking portion" has been changed to –a second linking portion --.

In claim 34, line 11, "one of the fixation elements" has been changed to –one of the elongate spinal fixation elements --.

In claim 34, line 14, "first and second fixation elements" has been changed to – first and second elongate spinal fixation elements --.

In claim 34, line 18, "the linking portion" has been changed to –the first linking portion --.

In claim 34, line 19, "the linking portion" has been changed to –the second linking portion --.

In claim 45, line 2, "the linking portion" has been changed to --the first linking portion --.

In claim 51, line 2, "the linking portion" has been changed to --the second linking portion --.

In claim 52, line 1, "the linking portion" has been changed to --the first linking portion --.

In claim 53, line 3, "a linking portion" has been changed to --a first linking portion -

In claim 53, line 4, "one of the fixation elements" has been changed to --one of the elongate spinal fixation elements --.

In claim 53, line 4, "the linking portion" has been changed to --the first linking portion --.

In claim 53, line 12, <sup>a</sup>~~the~~ linking portion" has been changed to <sup>a</sup>~~the~~ second linking portion --.

In claim 53, line <sup>14</sup>~~13~~, "the fixation elements" has been changed to --the elongate spinal fixation elements --.

In claim 53, line <sup>17</sup>~~16~~, "second fixation elements" has been changed to -- second elongate spinal fixation elements --.

In claim 53, line <sup>21</sup>~~20~~, "the linking portion" has been changed to --the first linking portion --.

In claim 53, line <sup>22</sup>~~21~~, "the linking portion" has been changed to --the second linking portion --.

In claim 61, line 4, "second spinal fixation elements" has been changed to -- second elongate spinal fixation elements --.

In claim 63, line 4, "second spinal fixation elements" has been changed to -- second elongate spinal fixation elements --.

In claim 64, line 1-2, "second spinal fixation elements" has been changed to -- second elongate spinal fixation elements --.

In claim 65, line 4, "the first rod" has been changed to --the first longitudinal spinal rod --.

In claim 65, line 11, "the second rod" has been changed to -- the second longitudinal spinal rod --.

In claim 85, line 4, "the first rod" has been changed to --the first longitudinal spinal rod --.

In claim 85, line 14, "the second rod" has been changed to -- the second longitudinal spinal rod --.

In claim 93, line 4, "second spinal rods" has been changed to --second longitudinal rods --.

In claim 95, line 3-4, "second spinal rods" has been changed to --second longitudinal rods --.

In claim 96, line 1-2, "second spinal rods" has been changed to --second longitudinal rods --.

### **Reasons for Allowance**

The following is an examiner's statement of reasons for allowance:

The claims in the instant application have not been rejected using prior art because no references, or reasonable combination thereof, could be found which disclose, or suggest, a transconnector for coupling spinal rods or elongate fixation elements as set forth in claims 1, 22, 34, 53, 65, and 85.

It is noted that Korotko et al. (US Pat 5312405) teaches a spinal rod connector with a first and second member, but lacks having a projection associated with the first hook portion. Also the examiner could not find any other reference that would teach such limitation.

It is noted that Davis et al. (US Pat 5312405) teaches a spinal fixation system with a projection, but fails to have a first and second member with each having a hook portion and an opening. Also the examiner could not find any other reference that would teach such limitation.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Kim whose telephone number is (571) 272-2817. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on (571) 272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JK 

  
EDUARDO C. ROBERT  
SUPERVISORY PATENT EXAMINER